

APPEAL NO. 030343
FILED MARCH 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 18, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that the respondent (self-insured) is relieved of liability under Section 409.002 because of the claimant's failure to timely notify the self-insured of his injury pursuant to Section 409.001. The claimant appealed and the self-insured responded.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10). Conflicting evidence was presented at the CCH on whether the claimant sustained a compensable injury on _____, from lifting material at work. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision that the claimant did not sustain a compensable injury on _____, is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

There was also conflicting evidence regarding the notice issue. While there was evidence that on August 23, 2001, the claimant reported to his supervisor that he had a foot injury from running at work on August 23, 2001, the hearing officer was not persuaded that the claimant timely reported to the self-insured that he had sustained a back injury from lifting material at work on _____, as claimed by the claimant. The conflicting evidence with regard to whether the claimant timely reported a back injury from lifting material at work on _____, was for the hearing officer to resolve as the finder of fact. We conclude that the hearing officer's decision that the claimant did not timely report the claimed _____, back injury to the self-insured is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, supra. While it does not appear that the claimant is claiming that he had good cause for not timely reporting an _____, back injury from lifting materials at work, and the hearing officer did not make any findings regarding good cause for late reporting, we note that the claimant was diagnosed as having a lumbar strain on August 22, 2001, and thus a back injury could have been timely reported to the self-insured.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Roy L. Warren
Appeals Judge